IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15710 of 2004

Between:

P.Gopal Yadav S/o. Sri P.Parameshwara Yadav
R/o. 1-3-183/40/A, Gandhi Nagar, Hyderabad -500 080.

..... PETITIONER

AND

1 The Government of Andhra Pradesh by its Prl. Secretary, Home

Department at Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad.
3 The Assistant Commissioner of Police Chikkadapally, Hyderabad.
4 The Station House Officer P.S. Chikkadapally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, particularly one in the nature of writ of mandamus, declaring the action of the respondents in particular the 4th respondent herein in issuing the impugned notice No.378/CR/PS-CKP/2004 dated 29.7.2004 threatening the petitioner stating that action will be taken against him as per the provisions of A.P. Gaming Act and calling upon his to produce all the rental receipts, bank account statements and other documents, as illegal , improper, violative of principles of natural justice as well as Citizens rights guaranteed under the Constitution of India, besides being against the provision of so called sections 91 and 160 of Cr.P.C and set aside the said impugned notice of the 4th respondent while directing the respondents not to either threat or harass the petitioner as well as his family members in any manner or any explored cause.

Counsel for the Petitioner:MR.GUNDLAPALLI LAXMI NARASIMHA RAO

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following O R D E R:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home appearing for the respondents.

As can be seen from the material on record, it is not in dispute that the premises bearing No.1-10-125, Ashok Nagar, Hyderabad was leased out to one K.Amar Reddy and others, who having formed an association have been carrying on certain cultural activities in the said premises. It appears that Crime No.378 of 2004 was registered against the said association under Sections 3 and 4 of the Andhra Pradesh Gaming Act (for short 'the Act) on the file of Chikkadpally Police Station, Hyderabad on 25-07-2004 and the investigation is pending. Since the petitioner claims to be the owner of the said premises, a notice dated 29-07-2004 under Section 91, read with Section 160 Cr.P.C. was served on the petitioner calling upon him to appear before the fourth respondent for the purpose of investigation and to produce Xerox copies of rental agreement made between the petitioner and his tenant and also the rental receipts including the statements of the Bank account and other documents, failing which it will be construed that the petitioner is colluded with his tenant in his business activities and action will be taken against him as per the provisions of the Act for allowing the premises to run an illegal business. Aggrieved by the said notice, the present writ petition is filed.

The contention of the petitioner is that though no crime is registered against him in connection with any offence, the respondents have been harassing him and particularly the action of the fourth respondent in summoning him to the police station is arbitrary and illegal since he is not at all concerned with the activities of the association, which is the lessee in respect of the premises in question.

On behalf of the respondents, a counter-affidavit has been filed by the fourth respondent – Inspector of Police, Chikkadapalli P.S., Hyderabad stating that Crime No.378 of 2004 was registered against the Mega City Friends, Sports and Cultural Association i.e,., the lessee of the petitioner under Sections 3 and 4 of the A.P. Gaming Act on 25-07-2004 since the members of the Association were found to be

playing three-cards-show. The investigation into the said crime is pending and during the course of investigation, the impugned notice was issued to the petitioner directing to submit the Xerox copies of the Rental Agreement, Rental Receipts, etc., in respect of the premises leased out to the Association. It is further stated that the petitioner was never asked to cancel the lease said to have been granted in favour of the association and that the allegation that the respondents are threatening that the petitioner and his family members will be falsely implicated in cases is absolutely false. It is further stated that the petitioner cannot have any objection for production of Xerox copies of the rental agreement, rental receipts, etc., in respect of the premises leased out to the association against whom a case in Crime No.378 of 2004 was registered for the purpose of investigation in the said case and therefore the writ petition is liable to be dismissed.

Though learned counsel for the petitioner vehemently contended that the activities of the association, which is a lessee in respect of the premises in question cannot be said to be illegal or contrary to the provisions of the Act, I am not inclined to express any opinion with regard to the same since the investigation in Cr.No.378 of 2004 is pending and it is for the respondents to make necessary enquiries and if ultimately a case is made out, necessary action will be taken in accordance with law against the lessee.

So far as the petitioner is concerned, as can be seen from the impugned notice dated 29-07-2004, it is only for the purpose of investigation the petitioner was called to the Police Station and he was also directed to produce certain documents. The said action of the respondents in requiring the presence of the petitioner for the purpose of investigation cannot be found fault with. The allegation of the petitioner that the petitioner is being threatened by the respondents to cancel the lease in favour of the association and he was put to harassment by the respondents has been categorically denied by the respondents in their counter-affidavit. In the light of the denial of the said allegation, there is no adjudication is necessary on the said issue. The statement of the respondents that they are not threatening or harassing the petitioner is placed on record.

However, the learned Counsel for the petitioner further contended that the impugned notice whereunder the petitioner was required to produce not only the rental agreement and the rental receipts but also the statement of Bank accounts and other documents is arbitrary and illegal since the Statement of Bank accounts

cannot be said to relevant in any manner for the purpose of investigation into Crime No.378 of 2004, registered against the lessee of the petitioner.

It is true that under Section 91 of Cr.P.C. any Officer in-charge of Police Station, whenever he considers that the production of any document is necessary for the purpose of investigation, is competent to issue an order to the person in whose possession or power such document is believed to be, to produce the same. However, the document sought for must be relevant to the case and that the production or inspection shall be necessary and desirable for the purpose of investigation.

In the case on hand, the counter-affidavit filed by the respondents is totally silent as to the purpose for which the statement of Bank accounts of the petitioner was directed to produce. As a matter of fact, there was no reference to the said document in the counter-affidavit, but it was only stated that the petitioner was directed to produce the Xerox copies of rental agreement and rental receipts in respect of the premises leased out to the Association against whom Cr.No.378 of 2004 was registered for the purpose of investigation.

In the circumstances, I find force in the contention of the learned Counsel for the petitioner that the respondents are not justified in directing the petitioner to produce the statement of Bank accounts of the petitioner. However, the petitioner cannot raise any objection with regard to the production of Xerox copies of rental agreement and rental receipts in respect of the premises in question.

Accordingly, the Writ Petition is disposed of with a direction to the respondents to proceed with the investigation into Cr.No.378 of 2004 without insisting on production of the Statement of Bank accounts of the petitioner. If any other document is required for the purpose of investigation, it is open to the investigating officer to direct production of the same, precisely describing the documents so required. There shall also be a further direction that whenever the presence of the petitioner is required for the purpose of investigation in Cr.No.378 of 2004 or for any other purpose the same shall be done strictly in accordance with the provisions of law.

With the above direction, the Writ Petition is disposed of. No costs.

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04-11-2004

kdl

To

1 The Principal Secretary, Government of Andhra Pradesh, Home

Department at Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad.
3 The Assistant Commissioner of Police Chikkadapally, Hyderabad.
4 The Station House Officer P.S. Chikkadapally, Hyderabad.

5 Two C.Cs to the Government Pleader for Home, High Court

Buildings, Hyderabad (OUT)

6 Two C.D copies